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Service Date: August 2, 1988

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER Of the Application of) UTILITY DIVISION
Burlington Northern for Authority)
to Transfer the Assets and Operat-) DOCKET NO. 87.11.76
ing Responsibilities of its Water)
System Serving the Essex Area to) ORDER NO. 5352
the Essex Water Users Association.)

FINAL ORDER

FINDINGS OF FACT

1. On November 27, 1987, Burlington Northern Railroad Company (BN) filed a petition with the Montana Public Service Commission asking that the Commission authorize the transfer of the assets and operating responsibilities of the water system at Essex Montana to the Essex Water Users Association. On June 3, 1988, the Commission was notified that an Essex Water Users Association was formed and would receive the assets if the transfer were approved. The Essex Water Users Association will continue water service to all consumers previously served by BN. Transfer of the assets will not in itself result in a rate increase for any consumer.

2. The proposed transfer is from a public utility as defined at 69-3-101, MCA, to a water association. The Commission does not assert jurisdiction over water user associations.

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The rates and services of the water association would not be regulated by the Commission.

3. On June 9, 1988, this Commission issued a Notice of Application to Transfer Assets and Opportunity for Public Hearing. This was sent to the Montana Consumer Counsel and customers of whom the Commission was aware. The notice was published as a legal advertisement in the Daily InterLake, Kalispell, Montana, the Whitefish Pilot, Whitefish, Montana, and the Hungry Horse News, Columbia Falls, Montana. The Notice gave interested parties until July 5, 1988, to request a hearing or submit protests regarding the transfer.

4. No protests or requests for public hearing were received. Pursuant to the provisions of the Notice no public hearing was scheduled.

5. A review of the petition indicates the transfer will not affect the adequacy or availability of service to the customers.

6. The Water Users Association appears to have the financial and other resources necessary to provide adequate service in the future.

CONCLUSIONS OF LAW

1. This Commission has jurisdiction over the public utility transferring the assets and over the matters raised in this petition. 69-3-101, MCA.

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2. The application demonstrates that the transfer of ownership will not result in inadequate service or unreasonable rates.

ORDER

NOW THEREFORE, IT IS ORDERED THAT:

1. Burlington Northern is hereby authorized to transfer its assets and operating responsibilities to the Essex Water Users Association.

DONE IN OPEN SESSION this 1st day of August, 1988, by a vote of 5 - 0.

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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Carol Frasier
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.